

1 WILLIAM L. STERN (CA SBN 96105)
WStern@mofo.com
2 CLAUDIA M. VETESI (CA SBN 233485)
CVetesi@mofo.com
3 KATHLEEN B. RONEY (CA SBN 268446)
KRoney@mofo.com
4 MORRISON & FOERSTER LLP
425 Market Street
5 San Francisco, California 94105-2482
Telephone: 415.268.7000
6 Facsimile: 415.268.7522

7 Attorneys for Defendants
DOLE FOOD COMPANY, INC.,
8 DOLE PACKAGED FOODS, LLC

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN JOSE DIVISION
12

13 CHAD BRAZIL, an individual, on his own
14 behalf and on behalf of all others similarly
situated,

15 Plaintiff,

16 v.

17 DOLE FOOD COMPANY, INC.,
18 DOLE PACKAGED FOODS, LLC,

19 Defendants.

Case No. CV12-01831 LHK

**STIPULATION AND [PROPOSED]
ORDER NARROWING SCOPE OF
CLAIMS AND DISMISSING
DEFENDANT DOLE FOOD
COMPANY, INC.**

(Fed. R. Civ. P. 41(a)(1))

Judge: Hon. Lucy H. Koh
Action Filed: April 11, 2012

20
21 Pursuant to Federal Rule of Civil Procedure 41(a)(1), Plaintiff Chad Brazil ("Plaintiff"),
22 on behalf of himself and all others similarly situated, and Defendants Dole Food Company, Inc.
23 and Dole Packaged Foods, LLC ("Dole" or "Defendants"), by and through their undersigned
24 counsel, hereby stipulate as follows:

25 WHEREAS on April 12, 2013, Plaintiff filed his Second Amended Complaint for
26 Damages, Equitable and Injunctive Relief ("SAC") listing eight products Plaintiff Chad Brazil
27 allegedly purchased, and 30 products Plaintiff claims are "substantially similar" to these eight
28 products;

1 WHEREAS on December 16, 2013, Defendants took the deposition of Plaintiff Chad
2 Brazil, and during deposition Mr. Brazil testified that he has never purchased Dole Frozen
3 Blueberries (3 oz plastic cups), or any Smoothie Shakers products; and

4 WHEREAS the Parties have met and conferred regarding proper parties to this action;

5 IT IS HEREBY STIPULATED, subject to the approval of the Court, that claims
6 regarding Dole Frozen Blueberries (3 oz plastic cups) and all Smoothie Shakers products
7 (Mixed Berry, Peach Mango, Strawberry, or Strawberry Banana flavors) are dismissed from this
8 suit; and

9 IT IS FURTHER STIPULATED, subject to approval of the Court, that Defendant Dole
10 Food Company, Inc. is dismissed from this action. The remaining Defendant Dole Packaged
11 Foods, LLC will be financially responsible for any judgment in this case.

12 Dated: January 10, 2014

13 WILLIAM L. STERN
14 CLAUDIA M. VETESI
15 KATHLEEN B. RONEY
16 MORRISON & FOERSTER LLP

17 By: /s/ William L. Stern
18 WILLIAM L. STERN

19 Attorneys for Defendants
20 DOLE FOOD COMPANY, INC.,
21 DOLE PACKAGED FOODS, LLC

22 Dated: January 10, 2014

23 Charles Barrett
24 CHARLES BARRETT, P.C.
25 6518 Hwy. 100, Suite 210
26 Nashville, TN 37205

27 By: /s/ Charles Barrett
28 CHARLES BARRETT

Attorney for Plaintiff

ECF ATTESTATION

I, William L. Stern, am the ECF User whose ID and password are being used to file the following: **STIPULATION AND [PROPOSED] ORDER NARROWING SCOPE OF CLAIMS AND DISMISSING DEFENDANT DOLE FOOD COMPANY, INC.** In compliance with General Order 45, X.B., I hereby attest that Charles Barrett has concurred in this filing.

Dated: January 10, 2014

WILLIAM L. STERN
CLAUDIA M. VETESI
LISA A. WONGCHENKO
MORRISON & FOERSTER LLP

By: /s/ William L. Stern
WILLIAM L. STERN

[PROPOSED] ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: January 13, 2014


LUCY H. KOH
United States District Judge